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September 28, 2023

VIA ECF

Judge Nina R. Morrison
Eastern District of New York
225 Cadman Plaza East
Courtroom 4GNs
Brooklyn, New York 11201

Re: *Fadlevich v. JD 34th Street, et. al.*
Docket No.: 19-cv-04227

Your Honor:

The law firm of Rivkin, Radler LLP represents Defendants Gutman, Mintz, Baker & Sonnenfeldt, LLP and Erik Keilbach, (“Gutman Defendants”), in the above referenced action. Discovery ended on September 5, 2023. *See, Order dated July 7, 2023.* In accordance with Rule 5.1.2.1 of Your Honor’s Individuals Rules, motions for summary judgment are to be filed “within the time requirements of . . . Rule . . . 56.” Fed. R. Civ. P. 56(b) provides that “a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.” Here, that would be October 5, 2023.¹

The Gutman Defendants intend on moving for summary judgment, seeking the dismissal, *inter alia*, of Plaintiff’s: (1) GBL §349 claim; (2) Plaintiff’s state law conversion claim, (3) Plaintiff’s claim for punitive damages under both of his State law claims, and; (4) to the extent even necessary, Plaintiff’s FDCPA 1692(f) claim.² Plaintiff’s counsel has advised that Plaintiff will similarly be moving for summary judgment against the Gutman Defendants, as well as against Defendant JD 34th Street Realty LLC. Similarly, Defendant JD 34th Street’s counsel has also advised that Defendant JD will be moving for summary judgment on grounds similar to the Gutman Defendants, as well as on its crossclaim.

¹ According to Rule 5.1.2.1. the filing of a pre-motion conference letter and accompanying Rule 56.1 Statement, *see Rule 5.1.2.2.*, is sufficient to satisfy this thirty-day filing requirement.

² As the Court is aware, the Gutman Defendants conceded liability under FDCPA 1692(e).

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All counsel have “met and conferred” concerning this matter. Given the number of issues to be briefed, as well as our respective professional and personal commitments and obligations, we have agreed, subject to this Court’s approval, to an extension of time to file the respective motions for summary judgment until November 10, 2023. Additionally, to not unduly delay the full briefing and adjudication of the parties’ respective motions, counsel would respectfully request to dispense with the filing of a pre-motion conference letter. If Your Honor agrees to the requested extension of time and dispensing with the need to file pre-motion conference letters, the parties propose the following briefing scheduling in accordance with Rule 5.2.3:

November 10 - - the parties serve their respective motions for summary judgment;

December 1 - - the parties serve opposition;

December 12 - - the parties will serve replies and file their respective moving papers in accordance with Rule 5.2.3.1.

Accordingly, the parties respectfully request that Your Honor grant an extension of time to file their respective summary judgment motions until November 10, dispense with the filing of a pre-motion conference letter and adopt the briefing schedule set forth above.

Respectfully submitted,

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